

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR
WARMING PRODUCT LIABILITY
LITIGATION

MDL No.: 15-md-02666 (JNE/FLN)

This Document Relates To:

LOLETHIA DAVIS,

Civil Action No.: 16-CV-02661-JNE-FLN

Plaintiff,

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Lolethia Davis in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 filed on August 3, 2017.
3. Ms. Davis contacted Kennedy Hodges, LLP in August of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Ms. Davis's treatment were obtained by Kennedy Hodges through its third party medical records retrieval company. Those records demonstrate use of a Bair Hugger device during her original orthopedic surgery.
5. This case was filed on August 5, 2016 to comply with the statute of limitations deadline.
6. Our office had been in somewhat regular contact with Ms. Davis up until August of 2016.
7. Numerous phone calls were placed to Ms. Davis by staff at Kennedy Hodges in an attempt to reach her and obtain information for the Plaintiff Fact Sheet. The majority of these

- phone calls were made in November and December of 2016, prior to the original deadline for submission of the Plaintiff Fact Sheet. These calls went unanswered, and voice messages left with Ms. Davis were not returned.
8. Additionally, several letters were sent to Ms. Davis advising that her case would be subject to dismissal if she did not contact our office and provide the information necessary to submit a substantially complete Plaintiff Fact Sheet.
 9. Based on information and belief, Ms. Davis has not made any attempt to contact Kennedy Hodges in response to these phone calls and letters to provide the information necessary to complete the Plaintiff Fact Sheet. The last communication with Ms. Davis was a brief telephone conversation on August 8, 2016.
 10. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim, we have not been able to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

August 10, 2017

/s/ Donald C. Green II
Donald C. Green II